

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MILAN PAUL PAKES,

No C-04-5294 VRW

Petitioner,

ORDER

v

JAMES A YATES, Warden,

Respondent.

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The court directs respondent to brief the following
issues:

- (1) Assuming arguendo that petitioner had established at trial that no identifiable police vehicles were pursuing petitioner from behind until after he passed Sgt St. Amour's roadblock, whether petitioner could then have been convicted of the felony of violating California Vehicle Code § 2800.2. If respondent maintains that a conviction under § 2800.2 can be sustained absent a showing of three or more violations that are assigned a point count under § 12810 or damage to property, respondent shall cite specific authority for this contention.

1 (2) Assuming arguendo that petitioner could not be
2 convicted of violating California Vehicle Code
3 § 2800.2 under the circumstances described in issue
4 #1 above, whether it would nonetheless have been
5 "objectively reasonable" for the Court of Appeal to
6 deny petitioner's petition for writ of habeas corpus.

7 Respondent's brief addressing these issues shall be
8 served and filed not more than twenty-one (21) days from the date
9 of this order. If petitioner wishes to file a responsive brief, he
10 shall do so within seven (7) days of the date respondent's brief is
11 filed.

12 IT IS SO ORDERED.

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14 VAUGHN R WALKER
15 United States District Chief Judge
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